PROPOSITION 65[1]

CLEAR AND REASONABLE WARNINGS

QUESTIONS AND ANSWERS FOR BUSINESSES

Office of Environmental Health Hazard Assessment

California Environmental Protection Agency

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[1] The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65, codified at Health and Safety Code section 25249.5 *et seq.* Hereafter referred to as "Proposition 65" or "the Act".

Modified Article 6 Clear and Reasonable Warnings

This document was developed by the Office of Environmental Health Hazard Assessment (OEHHA) to assist businesses in locating and understanding relevant provisions in the Article 6 Clear and Reasonable Warnings regulations. For information regarding Proposition 65 safe harbor consumer product exposure warnings provided on the internet and in catalogs, see "Questions and Answers for Businesses: Internet and Catalog Warnings", which is also available on the Proposition 65 Warnings Website.

Q1: Has the Office of Environmental Health Hazard Assessment (OEHHA) issued new regulations concerning the provision of warnings?

A1: Yes, in August 2016 OEHHA adopted amended regulations for the provision of "clear and reasonable" Proposition 65 warnings in Title 27, California Code of Regulations, section 25600, *et seq.*[2] The new regulations will be effective on August 30, 2018, although businesses can begin using warnings that conform with the new regulations at any time.

- Article 6, Subarticle 1 consists of mandatory provisions including definitions of terms that are applicable to all warnings provided under Proposition 65.
- Article 6, Subarticle 2 provides non-mandatory, "safe harbor" methods and content for giving "clear and reasonable" warnings under Proposition 65.

Q2: I have determined that I need to provide a warning. How do I do so?

A2: Guidance for providing a clear and reasonable warning is available in OEHHA's warning regulations. Warnings can be given by a variety of methods depending on the type of exposure (consumer product, environmental, or occupational). You may find it helpful to refer to the side-by-side comparison of the September 2008 and August 2018 ("new") regulations to consider your options, as either can be used until August 30, 2018.

Q3: What kind of testing does a business have to do in order to meet the safe harbor warning requirements?

A3: The warnings regulations do not address the question of *whether* a warning is required; rather, the regulations provide guidance on *how* to provide a warning once a business has made a determination that a warning is required. The warning regulations do not require a business to perform any testing.

[2] All further references are to sections of Title 27, California Code of Regulations unless indicated otherwise.

To guide businesses in determining whether a warning is necessary, OEHHA has developed over 300 regulatory safe harbor levels for Proposition 65 chemicals. A safe harbor level identifies a level of exposure to a listed chemical that does not require a Proposition 65 warning. A business is not required to provide a warning if exposure to a chemical occurs at or below these levels. These safe harbor levels consist of No Significant Risk Levels for chemicals listed as causing cancer and Maximum Allowable Dose Levels for chemicals listed as causing birth defects or other reproductive harm.

Subarticle 1. General

Q4: When do the new regulations take effect?

A4: To allow for a reasonable transition period for businesses to begin providing warnings under the new regulatory provisions, businesses can use either the September 2008 or new regulations until August 30, 2018, at which time the new regulations will become operative and the September 2008 regulations will no longer be available as a safe harbor compliance option.

Q5: If I have to provide a warning, am I required to use the safe harbor warning methods and content described in Article 6?

A5: No, the safe harbor warning methods and content in Article 6 are deemed by OEHHA to be clear and reasonable, and provide a "safe harbor" against enforcement actions for businesses that choose to use them. A business can choose to use other warning methods and content; however, the business might have to defend the warning in legal proceedings if it were challenged by a public or private enforcer as not being clear and reasonable [Section 25600(f)].

Q6: When do I need to provide the new warnings?

A6: The new warnings become operative on August 30, 2018, at which time the September 2008 safe harbor warning methods and content will no longer be operative. The exceptions involve consumer products manufactured prior to August 30, 2018 and labeled in compliance with the September 2008 warning regulations, and products covered by court-approved settlements [Section 25600(b)].

Q7: Does a product available for retail purchase before August 30, 2018 require a new warning?

A7: A consumer product that is *manufactured* prior to August 30, 2018 and labeled with a warning that is compliant with the September 2008 version of the regulations is deemed to be compliant with the new regulations [Section 25600(b)]. In other words, such a product does not require a new warning. The date the product is available for purchase does not determine whether the product should have a new warning.

Q8: Does a product covered by a court-approved warning require a new warning?

A8: A consumer product covered by a court-approved settlement can continue to use any warning methods and content contained in that settlement [Section 25600(e)].

Q9: Can a product that is similar to one covered by a court-approved warning use the court-approved warning instead of the new warning in the regulation?

A9: The new regulations do not prohibit a business that is not a party to a settlement from using warning methods and content incorporated into the settlement. However, if the warning methods or content differ from those in the regulations, the business would not be able to claim safe harbor protection. The business could still defend an enforcement action by arguing such a warning is "clear and reasonable."

Q10: Can a business replace the September 2008 warnings and provide the new warnings immediately?

A10: Yes, during the two-year phase-in period from August 30, 2016 to August 30, 2018, a business can follow the safe harbor methods and content from either the September 2008 regulations or the new regulations [Section 25600(b)].

Responsibility to Provide Warnings

Q11: Who should provide a warning?

A11: Consistent with the Act, OEHHA's new regulations place primary responsibility for providing warnings on product manufacturers, producers, packagers, importers, suppliers or distributors. For consumer product exposures, businesses in the above categories must either provide a warning on the product label or labeling, or provide notice and warning materials to "the authorized agent" for a retail seller and receive an acknowledgment that the notice and materials were received [Section 25600.2(b)]. The retail seller is responsible for placement and maintenance of the warning materials he/she receives from the product manufacturer, producer, packager, importer, supplier or distributor [Section 25600.2(d)]. Businesses should carefully review the new requirements

Q12: Can retail sellers rely on new Section 25600.2(e) now?

A12: No, Section 25600.2(e) of the new regulations does not become operative until August 30, 2018. The phase-in period for the new regulations allows a business to provide *warnings* using the new safe harbor methods and content prior to the operative date of August 30, 2018. However, Section 25600.2(e) is not operative until August 30, 2018.

Q13: If a company is a manufacturer or producer of a consumer product, but does not sell it directly to retailers, how can it comply with the requirement to provide warnings to retail sellers?

A13: A consumer product manufacturer that does not sell directly to retailers has two options for compliance: (1) Provide a warning on the product label or labeling[3]; or (2) Provide both a written notice that a warning is required and warning materials (such as shelf signs) to the packager, importer, supplier or distributor via their authorized agent [Section 25600.2(b)]. Manufacturers and others in the chain of commerce should take appropriate actions to ensure that the warning is passed along to the retailer and ultimately to the consumer [Final Statement of Reasons (FSOR), p. 39]. How that is done will vary from situation to situation. A manufacturer or producer may choose to enter into a contract with other businesses along the chain of commerce for their product and/or the retailer to ensure that the warning is appropriately transmitted to the retailer and end consumer [Section 25600.2(i)].

Q14: If a company manufactures component parts or ingredients that are sold in bulk to other manufacturers or formulators, how can it comply with the requirement to provide a warning, especially if the need for a warning depends on the concentration or the manner of use of the listed chemical in the final product?

A14: A company that manufactures component parts or ingredients that include listed chemicals can comply with the obligation to warn persons who can be occupationally exposed to the bulk product by providing warnings consistent with Section 25606. The company would only have responsibility for a consumer warning if it has knowledge that the end use of the component part or ingredient can expose a consumer to a listed chemical (See FSOR, p. 138). For example, if a manufacturer of a food ingredient knows that the ingredient is typically used in certain types of prepared foods and could thereby result in an exposure under the Act, then the ingredient manufacturer should provide the warning to the product manufacturer [Section 25600.2]. The product manufacturer is then responsible for determining whether the product they are manufacturing causes an exposure to the chemical at a level that requires a warning. If so, the product manufacturer is responsible for passing the information along to its customers or the product retailer [Section 25600.2]. In such a situation, the ingredient manufacturer may also choose to work with the product manufacturer to evaluate whether the product should have a warning and may enter into a contract with product manufacturers to ensure that the warning is transmitted to the retailer and ultimately the consumer [Section 25600.2(i)].

[3] Section 25600.2 sets the responsibilities to provide a warning under the Act, but does not in and of itself provide a safe harbor. A business wishing to claim safe harbor protection must follow the method and content requirements set forth in Article 6, Subarticle 2.

Subarticle 2. Safe Harbor Methods and Content

Q15: What are the type size requirements for safe harbor warnings?

A15: Type size requirements depend on the category of exposure covered by the safe harbor warning. Consumer product exposure warnings must generally be prominently displayed on a label, labeling, or sign, and must be displayed with such conspicuousness as compared with other words, statements, designs or devices on the label, labeling, or sign, as to render the warning likely to be seen, read and understood by an ordinary individual under customary conditions of purchase or use [Section 25601(c)]. Some safe harbor warnings, such as short-form warnings for consumer products [Section 25602], environmental exposure warnings [Sections 25604, 25605], and several "tailored warnings" [Section 25607.1, et seq.], have specific minimum type-size requirements. You should refer to the safe harbor methods corresponding to the exposure category for which you are providing a warning to determine if there are any applicable type size requirements.

Consumer Product Exposure Warning Methods

For additional information regarding safe harbor consumer product exposure warnings provided on the internet and in catalogs, see "Questions and Answers for Businesses: Internet and Catalog Warnings", which is available on the Proposition 65 Warnings Website.

Q16: What are the ways to provide safe harbor warnings for consumer product exposures?

A16: The safe harbor methods and content for providing a consumer product exposure warning can be found in Sections 25602 and 25603. Section 25602(a) describes four safe harbor warning methods:

- A product-specific warning provided on a posted sign, shelf tag, or shelf sign, at each point of display of the consumer product.
- A product-specific warning provided via any electronic device that automatically provides the warning to the purchaser before purchase without requiring the purchaser to seek out the warning.
- A warning on the label that complies with the content requirements in Section 25603(a); namely, the warning symbol, the signal word, "**WARNING:**", and the applicable warning message.
- A short-form warning on the label that complies with the content requirements in Section 25603(b); namely, the warning symbol, the signal word, "**WARNING:**",

and the applicable truncated warning message. The warning must be in a type size no smaller than the largest type size used for other consumer information on the product and in no case in a type size smaller than 6-point type.

Q17: If a consumer product has exterior packaging, is a warning label required on both the packaging and on the product itself?

A17: No, a "label" is defined as a display of written, printed or graphic material that is printed on or affixed to a product or its immediate container or wrapper [Section 25600.1(i)]. The warning label should be placed in a manner to ensure that consumers receive the warning prior to exposure. A warning must be visible on exterior packaging that is opaque if an exposure requiring a warning can occur upon opening the package [FSOR, p. 258]. A business may also choose to provide a warning on both the exterior packaging and the product itself.

Q18: Can an owner's manual be used for providing a safe harbor warning?

A18: No, a standalone warning in an owner's manual is not a safe harbor warning method for consumer product exposures [FSOR, p. 74]. For some products (specifically diesel engines, passenger vehicles and recreational vessels), owner's manuals are included as part of a safe harbor warning method used in conjunction with another warning method [Sections 25607.14, 25607.16, and 25607.18].

Q19: Can a sign combine two different safe harbor warnings?

A19: It is possible to provide two or more warnings on a single sign. However, the entire applicable warning content for the type of exposure is required for safe harbor warnings in Subarticle 2. Combining the content of multiple warnings into one warning message would generally not comply with the safe harbor requirements. For example, if a vehicle repair facility allowed smoking at its facility such that warnings were required both for the environmental exposure to petroleum products and tobacco smoke, the required warning elements for each situation must be included for the safe harbor. A combined sign would need to be 8 ½ by 11 inches in dimension (designated smoking area requirement), posted at each public entry of the repair facility as well as within the area in which smoking occurred, printed in no smaller than 32-point type (repair facility requirement) with the messages enclosed in boxes to satisfy the safe harbor requirements. [Sections 25607.26, 25607.27, 25607.28, and 25607.29] A simpler method would be to provide separate warnings using the applicable methods and content.

Q20: Can a business provide a general Proposition 65 warning at each public entrance to a store instead of providing warnings for specific consumer products?

A20: No, the safe harbor consumer product exposure warning methods are described in Section 25602, subsections (a)(1)-(4). The safe harbor warning methods in Subarticle 2 do not include a standalone warning at public entrances purporting to cover all possible consumer product exposures. Such a warning would not meet the requirements for safe harbor warnings under the new regulations. Safe harbor warnings must be clearly associated with the product that is the subject of the warning and comply with the other requirements in Subarticle 2.

Consumer Product Exposure Warning Content

Warning Symbol

Q21: Which American National Standards Institute (ANSI) International Organization for Standardization (ISO) number is required for the yellow warning symbol?

A21: The Article 6 regulations did not adopt the ANSI standards for warning symbols, and there is no requirement that the warning symbol color correspond to a specific ISO number. The regulations only require that the warning symbol be "yellow." OEHHA provides sample compliant warning symbols that a business may download and use.

Q22: If a business does not have the ability to print in color, can the business print the warning symbol in black and white?

A22: Yes, if a business does not use the color yellow for other information printed on the label or sign, the business may print the warning symbol in black and white [Section 25603(a)].

Type Size

Q23: What is the minimum type size for consumer product exposure warnings?

A23: For a consumer product exposure safe harbor warning provided on a label pursuant to Section 25602(a)(3), there is no specific type size requirement. Section 25601(c), however, requires that safe harbor consumer product exposure warnings on a label be prominently displayed with such conspicuousness as compared with other words, statements, designs or devices on the label, labeling, or sign, as to render the warning likely to be seen, read, and understood by an ordinary individual under customary conditions of purchase or use.

A "short-form" warning may be provided on a product label in accordance with Section 25602(a)(4). This section requires that the entire warning be in a type size no smaller than the largest type size used for other "consumer information" on the product, and in any case the warning must not be in a type size smaller than 6-point type. "Consumer

information" is defined in Section 25600.1(c), and includes warnings, directions for use, ingredient lists, and nutritional information, but does not include the brand name, product name, company name, location of manufacture, or product advertising.

Chemical Names

Q24: Section 25601(b) requires a safe harbor warning to identify "one or more" of the chemicals for which the warning is being provided. What if a business determines that there are five listed chemicals requiring a Proposition 65 warning? Do *all* five chemicals need to be named in the warning?

A24: If a business chooses to follow the safe harbor methods and content in Section 25601(b), the business must include the name of one or more chemicals for which it is providing a warning. Additionally, where a business is providing a warning for both cancer and reproductive toxicity, the warning must include the name of one or more chemicals for each endpoint.

If, for example, there are five possible chemical exposures from a given product, and all five chemicals are listed only as carcinogens, then the business would only be required to name one of those five chemicals in the warning. However, the business may identify any or all of the remaining four chemicals if it chooses to do so. If there are exposures to both carcinogens and reproductive toxicants, a business would be required to name one of the chemicals that is a carcinogen and one of the chemicals that is a reproductive toxicant, but the business could choose to identify more chemicals in the warning. If the warning covers exposure to a chemical that is listed as both a carcinogen and a reproductive toxicant, the warning would only need to name that one chemical, however both endpoints would need to be included in the warning. The business could choose to identify more chemicals covered by the warning [FSOR, p. 199].

Q25: Is it acceptable to use chemical acronyms in a warning? As an example, if a product requires a warning for "diethylhexyl phthalate," is it acceptable to identify "DEHP" instead of the full chemical name in the warning?

A25: The chemical name as it appears on the Proposition 65 list needs to be included in the warning [FSOR, p. 71]. If the abbreviation is included as part of the full chemical name in a warning, the abbreviation alone can be used for subsequent references to the chemical name.

Short-Form Warnings

Q26: When can a business use a short-form warning?

A26: Section 25603, subsections (a) and (b) provide options for safe harbor warning content for consumer products. Subsection (a) is the standard warning content, while subsection (b) allows a business to use the truncated short-form warning content on a

product label. A business may use either the standard or short-form warning content on a "label" for a consumer product exposure [Sections 25602, subsections (a)(3)&(4)]. The short-form warning is not a warning method applicable to a "sign" [Section 25602(a)(1)].

Q27: Can a business provide a short-form warning instead of a specific product, chemical or area exposure warning ("tailored warning")?

A27: No, if there is a tailored warning for that exposure in Subarticle 2, a business cannot use the short-form warning and still claim the safe harbor unless the tailored warning expressly allows the use of the short-form warning [Section 25607(a)].

Q28: Can a short-form warning be placed on the packaging or does it have to be on the product itself?

A28: The short-form warning can be affixed to or printed on a product "label", which includes its immediate container or wrapper [Section 25600.1(i)] .

Q29: Can a short-form warning label be used on any size product?

A29: OEHHA's intent in adding the short-form warning to the safe harbor methods and content was to provide an alternative that could be used on small products or where space was limited. There is no express prohibition, however, on using the short-form warning on larger products. The warning content on the short-form warning must be in a type size no smaller than the largest type size used for other consumer information on the product and in no case smaller than 6-point type.

Q30: Is information required by other agencies such as warning messages, and nutritional information (calories, serving size, etc.) considered "consumer information"? Does that include the headings for those items?

A30: Yes, information such as warnings and nutritional information are "consumer information" for purposes of the minimum type size required for a short-form warning [Section 25600.1(c)]. There is no exception in the definition for headings.

Q31: If the space on a product label is too small and the short-form warning cannot be placed in one line, can the short-form warning be placed in two/three lines?

A31: Yes, there is no requirement that the short-form warning content fit on one line, however, the requirements such as the location of the warning symbol to the left of the warning message, height of the signal word, and the minimum type size must be followed if the business wishes to claim safe harbor protection.

Q32: If a business provides a short-form warning on the consumer product, can the same warning be provided on a website?

A32: Yes, a consumer product warning provided on a website pursuant to Section 25602(b) can use the same short-form warning content that the business is providing on the product. The business may also use a picture of the label on the product for the website warning.

Warnings in Languages Other Than English

Q33: When are warnings required to be provided in languages other than English?

A33: Safe harbor consumer product warnings [Section 25602], environmental warnings [Section 25604], and "tailored" warnings [Section 25607.1, et seq.] require warning content to be provided in other languages under certain circumstances. As an example, if a consumer product sign or label used to provide a warning includes consumer information about a product in a language other than English, the warning must be provided in that language in addition to English [Section 25602(d)]. Similarly, if signage at a business or facility is in a language other than English, then an environmental warning provided on signage by that business or facility must be in that other language in addition to English [Section 25604(a)].

Q34: How can I access warning content in different languages – Spanish, Chinese, French, etc.?

A34: OEHHA has provided warnings translations for businesses on the Proposition 65 Warnings Website, including translations in Spanish, Cambodian, Chinese (traditional and simplified), French, Hmong, Korean, Tagalog and Vietnamese.

Q35: Is a product name considered "consumer information"?

A35: No, a product name is not considered "consumer information" for purposes of determining whether a language needs to be provided in a language other than English. "Consumer information" includes warnings, directions for use, ingredient lists, and nutritional information; it does not include the brand name, product name, company name, location of manufacture, or product advertising [Section 25600.1(c)].

Environmental Exposure Warning Methods

Q36: If a business has determined that occupational exposure warnings are required for an exposure to a listed chemical, and is providing Proposition 65 occupational warnings that are compliant with the Article 6 safe harbor methods and content, does a business also need to provide warnings to visitors for exposures to listed chemicals at the facility?

A36: In general, a business should consider the exposures to listed chemicals that it knows about, and determine if each exposure requires a warning [FSOR, p. 165] If a business has determined that an employee may be exposed to a listed chemical at his

or her place of business at a level that requires a warning, and that a visitor to the facility can be also exposed to a listed chemical at a level that requires a warning, then Proposition 65 warnings should be provided for these exposures. The business should carefully consider the appropriate placement of warnings in the context of the regulations. The methods and content for providing safe harbor environmental and occupational exposure warnings are located in Sections 25604, 25605, and 25606.

Q37: The "environmental exposure" definition states all exposures that are not consumer product or occupational exposures are environmental exposures. It is not clear what type of warning is required when there are combinations of exposures. Are multiple types of warnings required when multiple types of exposures are occurring?

A37: Proposition 65 requires warnings for exposures to listed chemicals. When the regulations were first adopted, exposures were divided into three general categories: consumer product exposures, occupational exposures and environmental exposures. These categories have worked well over the years. It is true that in some circumstances warnings will need to be provided that do not fit neatly into a single category. In that case, more than one warning may be provided for exposures to listed chemicals in a given location. As an example, the regulations for amusement park warnings require a warning to be posted at each public entrance, but also require warnings to be provided separately for consumer products, alcoholic beverages, food, and enclosed parking facilities where such exposures occur on the premises in order for the amusement park to receive safe harbor protection [Section 25607.22(d)].

Q38: The regulations for environmental exposures require the warning to include a "map" [Section 25604(a)(2)(B)]**. Does that mean a floor plan of the property or a map of the area showing the location?**

A38: A "map" created pursuant to these regulations should clearly delineate the affected area as distinct from the surrounding unaffected areas. A map of an area where exposures requiring a warning can occur (such as a community adjacent to an industrial facility that is causing the exposures) should include landmarks such as street names, rivers, or other identifying features to allow people to readily recognize the area indicated. In some situations, such as a facility where exposures requiring a warning can occur on the facility's premises, a written description of the source of exposure, a floor plan delineating the affected area(s), or other graphic may be more clear (See FSOR, p.122).

Environmental Exposure Warning Content

Q39: How specific must the description of the source of exposure be in an environmental warning? Must a specific area be described for each source of

exposure or for each chemical present, or only for the chemical listed in the warning?

A39: The specific area must be described in the warning only for the chemical or chemicals that are named in the warning. Examples of how a warning can identify the source of the exposure and be provided in a manner that clearly associates it with the exposure can be found in the tailored warning section of the regulation (see Sections 25607.20 and 25607.21 (enclosed parking facilities), Sections 25607.24 and 25607.25 (petroleum products), Sections 25607.26 and 25607.27 (service stations and repair facilities), and Sections 25607.28 and 25607.29 (designated smoking areas)).

Where a warning is being provided for multiple chemicals and/or multiple exposures, the warning should describe the area in which an exposure to those chemicals can occur [FSOR, p. 130]. It may be appropriate in some circumstances to provide warnings in more than one location in a facility so that the warning will be clearly associated with the source(s) of exposure. For example, posting a sign at the entry of a facility that purports to provide a warning for an exposure that is only likely to occur in one area of the facility, such as in an art studio on the third floor of a building, would not be sufficiently associated with the source of the exposure. Such a warning should be posted at entrances to that area of the third floor. On the other hand, if a particular chemical exposure can occur throughout a facility, for example exposures to a solvent from paint used throughout a large freestanding art studio, a warning at the studio entrance naming the chemical and the source (paint) may be appropriate.

Environmental exposure warnings must be provided in a conspicuous manner and under conditions that make the warning likely to be seen, read, and understood by an individual in the course of normal daily activity [Section 25601(d)]. The warning should be provided close enough to the source of exposure for the person seeing the warning to determine where and how they may be exposed [FSOR, p. 120].

Warnings are not required for the mere "presence" of listed chemicals. The business should determine if there is likely to be an exposure to a listed chemical at a level that requires a warning.

Occupational Exposure Warnings

Q40: Are professional or industrial use-only products covered by this regulation?

A40: If a business has determined that the only exposures to a listed chemical that require a warning will be occupational, then the business can follow the safe harbor occupational exposure methods and content described in Section 25606. The term "occupational exposure" is defined in Section 25600.1(k) as "an exposure to any employee at his or her place of employment".

Q41: Section 25606(a) states that a warning is not required on products that meet the requirements of the Hazard Communication Standard (HCS). If a product contains a Proposition 65 chemical, but the quantity is not enough to trigger classification as a carcinogen or reproductive toxicant under the HCS, does it still require a Proposition 65 warning?

A41: Proposition 65 imposes separate warning requirements from the HCS. Section 25606 provides that a business can comply with Proposition 65 by complying with state and federal occupational training and warning requirements *when a warning is required* under the federal or California HCS, or the California Pesticides and Worker Safety requirements. In the event that there is an occupational exposure to a Proposition 65 listed chemical with no warning requirement for the chemical under these laws, *a Proposition 65 warning may still be required* [FSOR, p. 29]. Section 25606(b) provides businesses the option to use safe harbor warning methods and content for an exposure to a Proposition 65 listed chemical in an occupational setting.

Q42: Can a business place the Proposition 65 warning on a Safety Data Sheet (SDS)?

A42: Safety Data Sheets (SDS) are outside the scope of this regulation, as OEHHA cannot prescribe the content of forms under the authority of a federal or other state agency. While the SDS may in some circumstances be used to provide occupational exposure warnings, they are not a safe harbor warning method for other exposure types such as consumer product or environmental exposures covered by Article 6.

Specific Exposure Warnings

Q43: There is a specific exposure warning ("tailored warning") for my product in the new regulations. Does that mean a warning is now required?

A43: The fact that there is a tailored warning for a particular product (or place) does not mean that a warning is required. A warning is required only when there is an exposure to a listed chemical from the product. As stated in Section 25600(a), the Article 6 regulations do not determine whether a warning is required, and a business should make the determination of whether a warning is required for a specific exposure. The business may use the safe harbor warning methods in Subarticle 2 to provide a clear and reasonable warning. Where a specific product, chemical or area exposure warning has been adopted in regulation, the specific warning must be used rather than the general warning (i.e., consumer product exposure or environmental) in order to take advantage of the safe harbor. [Section 25607]

Q44: Can I use a point-of-sale warning for exposures to Bisphenol A (BPA) in canned and bottled foods and beverages as a safe harbor warning?"

A44: No, the point-of-sale warning option for exposures to BPA in canned and bottled foods and beverages was a temporary regulation that expired on December 30, 2017 and is no longer a safe harbor option for businesses. Businesses should refer to the more general provisions of Article 6, Subarticle 2 for the current regulations concerning safe harbor warning methods and content for consumer product exposures.